

2010 BCSECCOM 437

July 27, 2010

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 81-101, s. 6.1 *Mutual Fund Prospectus Disclosure* – Securities Act s. 76 – *Prospectus Requirements* - An issuer requires an extension of the lapse date of its funds' simplified prospectus - An issuer proposes implementing changes to certain of its funds, including change of the fundamental investment objectives and fees and redesignation of unit series; in connection with those changes, the issuer proposes to cease offering certain of the funds under the simplified prospectus; the issuer proposes to change the registrar and transfer agent for all funds; the issuer will prepare and file a new simplified prospectus and annual information form reflecting the proposed changes for the funds it will continue distributing

Applicable British Columbia Provisions

National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, s. 2.5
Securities Act, R.S.B.C. 1996, c. 418, ss. 61, 76

In the Matter of
the Securities Legislation of
British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of
Qtrade Fund Management Inc.
(the Filer)

and

QFM Money Market Fund
QFM Fixed Income Fund
(together, the Terminating Funds)

2010 BCSECCOM 437

and

QFM Global Equity Fund
QFM Global Sector Target Fund
QFM Structured Yield Fund
QFM World Balanced Fund
(collectively, the Continuing Funds,
and together with the Terminating Funds, the Funds)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer on behalf of the Funds for a decision (the Exemption Sought) under the securities legislation of the Jurisdictions (the Legislation) that:
- (a) the time limits for the renewal of the simplified prospectus (Simplified Prospectus) and annual information form (Annual Information Form) of the Funds dated August 27, 2009, as amended and restated April 1, 2010 and amended May 10, 2010, with the exception of the Terminating Funds, be extended to those time limits that would be applicable if the lapse date of the Simplified Prospectus and Annual Information Form was October 12, 2010 ; and
 - (b) the time limit for the distribution of the Terminating Funds under the Simplified Prospectus and Annual Information Form be extended to permit the continued distribution of the Terminating Funds until the end of business on October 5, 2010.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application,
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan and Manitoba, and

2010 BCSECCOM 437

- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

- ¶ 3 This decision is based on the following facts represented by the Filer:
1. the Filer is a corporation governed by the *Canada Business Corporations Act*, with its head office in Vancouver, British Columbia; the Filer is the manager, trustee and portfolio adviser of the Funds; the Filer is not in default of any of the requirements of the Legislation;
 2. the Funds are open-ended mutual fund trusts established under the laws of British Columbia;
 3. the Funds are reporting issuers under the Legislation; none of the Funds is in default of any of the requirements of the Legislation;
 4. securities of the Funds are currently qualified for distribution in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario (the Relief Jurisdictions) under the Simplified Prospectus and Annual Information Form; securities of the Funds are also qualified for distribution in Quebec under a simplified prospectus dated April 1, 2010, as amended May 10, 2010; the Funds do not require the Exemption Sought in Quebec;
 5. the lapse date for the distribution of securities of the Funds under the Simplified Prospectus and Annual Information Form is August 27, 2010 (the Lapse Date);
 6. pursuant to the Legislation, provided a pro forma simplified prospectus is filed not less than 30 days before August 27, 2010, a final version of the simplified prospectus is filed by September 6, 2010, and a receipt for the simplified prospectus is issued by the securities regulatory authorities by September 16, 2010, the securities of the Funds may be distributed in the Relief Jurisdictions without interruption during the simplified prospectus renewal period;

2010 BCSECCOM 437

7. on April 30, 2010, the Filer announced by press release, in connection with which a material change report and amendment to the Simplified Prospectus were filed on SEDAR, that it is proposing a number of structural changes to the Funds, including the mergers of the Terminating Funds into other mutual funds managed by the Filer and the change of the fundamental investment objectives and fees and redesignation of unit series of certain Continuing Funds;
8. the Filer also intends to change the registrar and transfer agent for the Funds (together with the changes in representation 7, the Proposed Changes); due to a situation beyond the Filer's reasonable control, the change of registrar and transfer agent for the Funds must be postponed from its August 29, 2010 planned completion date to October 12, 2010; the Proposed Changes are therefore expected to be completed by October 12, 2010;
9. the Proposed Changes will be effected in accordance with applicable requirements of the Legislation, including National Instrument 81-102 *Mutual Funds*, National Instrument 81-106 *Investment Fund Continuous Disclosure* and National Instrument 81-107 *Independent Review Committee for Investment Funds*;
10. in the absence of this order, section 2.5 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* and section 62 of the *Securities Act* (Ontario) would require that the Funds file a final simplified prospectus and annual information form by September 6, 2010 and receive a final receipt by September 16, 2010;
11. the independent review committee for the Funds has reviewed the proposed mergers of the Terminating Funds with respect to conflict of interest issues and has determined that the mergers achieve a fair and reasonable result for the Funds; the Filer has determined that, subject to obtaining all applicable investor and regulatory approvals, it is in the best interests of the Terminating Funds and their unitholders to effect the mergers of the Terminating Funds following the completion of the change of registrar and transfer agent, after which the Terminating Funds will be wound up; if the Exemption Sought is granted, the Filer intends to cease offering the Terminating Funds under the Simplified Prospectus and Annual Information Form at the close of business on October 5, 2010 and cease redemption by the close of business on October 8, 2010; the Filer expects sales principally to be to existing investors in the Terminating Funds participating in systematic trading programs, including pre-authorized purchase plans and automatic rebalancing services;

2010 BCSECCOM 437

12. in view of the required postponement of the change of registrar and transfer agent, and consequentially the Terminating Fund mergers, there will be a period following the Lapse Date of just over one month during which a renewal prospectus for the Terminating Funds would be required in order to allow for the continued distribution of their securities before they are merged; in order to reduce the cost of renewing the Simplified Prospectus and Annual Information Form in August and then subsequently amending and restating the renewed simplified prospectus in October following the implementation of the proposed Terminating Fund mergers, the Filer wishes to have relief to continue to distribute securities of the Terminating Funds until the close of business on October 5, 2010;
13. the Filer has determined that, subject to obtaining all applicable investor and regulatory approvals, it is in the best interests of the Continuing Funds and their unitholders to effect the redesignation of unit series following the completion of the change of registrar and transfer agent and to effect all of the Proposed Changes at the same time;
14. in view of the required postponement of the change of registrar and transfer agent, and consequentially the Proposed Changes including the redesignation of unit series, and in order to avoid potential investor confusion and to reduce the cost of renewing the Simplified Prospectus and Annual Information Form in August and then subsequently amending and restating the renewed simplified prospectus in October following the implementation of the Proposed Changes, the Filer wishes to extend the Lapse Date of the Simplified Prospectus and Annual Information Form for the Funds (with the exception of the Terminating Funds) to October 12, 2010 so that the renewal simplified prospectus can be filed following completion of the Proposed Changes; and
15. since August 27, 2009, the date of the Simplified Prospectus and Annual Information Form, no undisclosed material change has occurred in respect of the Funds; accordingly, the Simplified Prospectus and Annual Information Form present up to date information regarding the Funds; the extension requested will not affect the currency or accuracy of the information contained in the Simplified Prospectus and Annual Information Form, and, accordingly, would not be prejudicial to the public interest.

2010 BCSECCOM 437

Decision

- ¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted.

Martin Eady, CA
Director, Corporate Finance
British Columbia Securities Commission